

## **REMARKS**

Claims 1-5, 18-28, and 30 remain in the application. By this Amendment, claims 1, 18, and 25 are currently amended. Claims 1, 18, and 25 are amended to clarify the claimed subject matter and not intended to narrow the scope of the claims. No new matter has been added. Reconsideration is requested. Applicant respectfully submits that all pending claims are in condition for allowance.

Applicant(s) thank Examiner Pyzocha for the courtesies extended to Applicant's representatives, Mr. Robert Evora during the October 26, 2006 personal interview and the undersigned who joined the interview via teleconference.

### **I. THE DRAWINGS SATISFY ALL FORMAL REQUIREMENTS**

The Office Action is silent as to whether the drawings submitted with this application have been accepted or objected to by the Examiner. Moreover, a review of the file history gives no such indication. Applicant believes that the drawings satisfy all formal requirements and respectfully requests that the Examiner indicate that the drawings have been accepted.

### **II. THE CLAIMS DEFINE PATENTABLE SUBJECT MATTER**

A. The Office Action rejects claim 1 under 35 U.S.C. §103(a) over U.S. Patent 5,689,559 to Park in view of U.S. Patent No. 5,889,781 to Eftimakis et al in further view of U.S Patent Application 2002/0165972 to Chien et al. This rejection is respectfully traversed.

Applicant duly appreciates the Examiner's acknowledgement during the personal interview that there is a clear distinction between the primary Park reference and applicant's invention.

Initially, Applicant respectfully challenges the combination of these references as there is no motivation, teaching or suggestion to combine such references in the instant

application. Park is directed to a copy protection system, which Applicant suggests is non-analogous art. Even if, however, Park is relevant, combining the copy protection system of Park with an airlink for the Link Access Protocol Wireless (LAPW) processing disclosed in Chien, paragraph 81 is not taught or suggested by either of those references. Conversely, it is respectfully asserted that the invention of Park would not be used in conjunction with an airlink system of Chien. Park inserts a control marker that is encoded. Inserting additional data such as a control marker in an airlink transmission sequence introduces inefficiencies into the network, adds to network overhead and reduces the effective bandwidth. It would be desirable in any airlink system to **not** insert additional data such as the control marker in Park.

Notwithstanding the foregoing traversal, even if the combination of applied references is proper, the combination of the applied references fail to teach or suggest all of the subject matter of independent claim 1. Park does not teach or suggest that there is separate control data and payload data in which the control data is not encrypted. Moreover, the control message found in the control data is never encrypted in the present system and furthermore, the control message is part of the normal transmission protocol. Park, on the other hand, teaches that the control marker (indicating copy prevention information) is both ***inserted and encoded***. Thus, on the back end, the control marker has to first be detected, decoded and then interpreted before copying is permitted.

The Examiner noted in the interview that he was mostly concerned about the back-end processing on the receiving end. To accommodate this concern, Applicant has chosen to amend claim 1 by inserting the word “unencrypted” before the terms “control data” and “control message” in the steps relating to the back-end receive processing. This amendment

clarifies the claim in that the claim already states that the control data is unencrypted in the processing step. Neither of the other applied references teaches this concept.

Accordingly, the Office Action has not established a prima facie case of obviousness, as the applied references fail to teach or suggest all of the subject matter of independent claims 1. Accordingly, the applied references also fail to render obvious the subject matter of claims 2-5 which depend from claim 1. Withdrawal of the rejection under 35 USC §103(a) is therefore respectfully solicited.

B. The Office Action rejects claim 18-23(sic)<sup>1</sup> under 35 U.S.C. §103(a) over Park as modified in view of Eftimakidis et al in further view of Chien et al., in further view of Schneier (Applied Cryptography) and in further view of U.S. Patent No. 5,060,266 to Dent.

Applicant hereby incorporates its previous traverses with respect to the motivation, teaching or suggestion to combine these references and adds that the further motivation to include two additional references simply adds to the evidence that there is motivation, teaching or suggestion to combine all 5 references.

As the Examiner has reiterated the rejection of claims 1-5 with respect to this group of claims, Applicant also incorporates by reference the traverses set forth above with respect to those claims, specifically that none of the references teaches a computer-readable medium that includes detecting a particular control message within control data that passes unencrypted through an associated control channel. Notwithstanding Applicant's position that the references are not combinable and that the references, alone or in combination, do not teach all of the features of independent claim 18, and in view of the Examiner's concerns

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<sup>1</sup> It is noted that the Examiner inadvertently labeled the rejection of these and the remaining claims. In actuality, claims 18-24 are rejected under this theory, and claims 25-28 and 30 are rejected in accordance with the Office Action paragraphs 6, 7, and 8. The remainder of the office action will address the claims in accordance with their number as currently pending.

expressed in the interview, Applicant has amended independent claim 18 to clarify that the “control message” within the “control data” is unencrypted.

Accordingly, the Office Action has not established a prima facie case of obviousness, as the applied references fail to teach or suggest all of the subject matter of independent claims 18. Accordingly, the applied references also fail to render obvious the subject matter of claims 19-24 which depend from claim. Withdrawal of the rejection under 35 USC §103(a) is therefore respectfully solicited.

C. The Office Action rejects claim 25 under 35 U.S.C. §103(a) over Park as modified in view Eftimakis et al in further view of Chien et al., in further view of Schneier, in further view of Dent and in further view of Bender and NewBUEI. The Office Action rejects 26-28 and 30 being unpatentable over Malek, in view of Dent and Park.

Applicant incorporates by references the traverses set forth above with respect to both the teaching, motivation or suggestion to combine these additional references and the substantive argument that even if such combination were proper, the references individually or in combination, do not teach or suggest all of the elements in independent claim 25, specifically that the control message is unencrypted and already present in the control data stream. Nonetheless and consistent with the other amendments set forth above with respect to independent claims 1 and 18, Applicant is amending claim 25 to clarify that the control message is unencrypted.

Accordingly, the Office Action has not established a prima facie case of obviousness, as the applied references fail to teach or suggest all of the subject matter of independent claims 25. Accordingly, the applied references also fail to render obvious the subject matter

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of claims 26-28 and 30 which depend from claim 25. Withdrawal of the rejection under 35 USC §103(a) is therefore respectfully solicited.

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### **CONCLUSION**

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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